

ENTERED ON DOCKET
10-10-08

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 7
DONALD WATTS,)
Debtor.) CASE NO. 08-69513-MHM
)

ORDER DENYING MOTION TO EXTEND TIME

On August 29, 2008, an order was entered extending time “through and including September 28, 2008,” for FCC Investment Trust I d/b/a First Consumer Credit, Inc. (“FCC”) to file a complaint to determine dischargeability. On September 29, 2008, FCC filed a Notice of Settlement for Non-Dischargeability of Debt, in which FCC seeks an additional 30 days “for the parties to memorialize the Agreement, submit the appropriate Motion and obtain the requisite order.”


First, FCC appears to be under the misimpression that “any Complaint [to determine dischargeability] must be filed on or before September 29, 2008.” The terms of the order entered August 29, 2008, were clear, however. The time to file a complaint to determine dischargeability was extended “through and including” September 28, 2008, which means that the deadline expired at midnight September 28, 2008. Pursuant to Bankruptcy Rule 4007(c), any motion to extend time must be filed before time has expired.

Second, as a settlement regarding dischargeability of a single debt does not affect administration of the estate, a motion pursuant to Bankruptcy Rule 9019 is unnecessary. No motion, adversary proceeding or other matter is pending that could be settled. Therefore, as no case or controversy exists that could be the subject of a motion to approve a settlement, it would appear that no subject matter jurisdiction exists on which an order could be based. Accordingly, it is hereby

ORDERED that the FCC's request for extension of time is *denied* and the Notice of Settlement for Non-Dischargeability of Debt is *stricken*.

The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Debtor, counsel for Debtor, FCC, counsel for FCC, the Chapter 7 Trustee, and all creditors and parties in interest.

IT IS SO ORDERED, this the 9th day of October, 2008.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE